IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 17191 of 1995

Between:

1 Palli Butchi Reddy, S/O Hanmanna,
R/o. Khammanpad, Uppair Dharoor,
Mahaboobnagar.
2 SMT. Rangamma, W/O Ranga Reddy,
R/o Khammanpad, Uppair Dharoor Mandal,
Mahaboobnagar Dist.

.. PETITIONERS.

AND

1 The District Collector,
Mahaboobnagar, Mahaboobnagar District.
2 The Special Deputy Collector L.A.O., P.J.P.,
Gadwal, Mahaboobnagar dist,
3 The Executive Engineer, LA.R., Division,
Gadwal, Mahaboobnagar.
4 The Superintending engineer, P.J.P., Circle No.1,
Gadwal Mahaboobnagar Dist.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue order or orders, direction or directions, Writ or Writs particularly one in the nature of Writ of Mandamus and declare the action of the respondent in interfering with the possession and enjoyment of the petitioners in Agricultural well called "ASHONI BHOMI" situated in R.S.No.231,229 of Uppair Village, without any right and acquisition is illegal arbitrary and violative of Art. 300 of the Constitution of India and to pass.

Counsel for the Petitioners: MR.K.L.N.SWAMY

Counsel for the Respondents.: GP FOR LAND ACQUISITION

The Court made the following :

ORDER:

Heard Sri K.L.N.Swamy, the learned counsel appearing for the petitioners and the learned Government Pleader for Land Acquisition appearing on behalf of the respondents.

The petitioners herein, claiming to be the owners of the lands in R.S.Nos.231 and 229 of Uppair Village, filed this writ petition, *inter alia,* seeking for restraint against the action of the respondents in interfering the possession and enjoyment of the petitioners' agricultural Well.

The learned counsel for the petitioners submits that some part of the above mentioned lands was already acquired by the Government and payment of compensation was already made. The respondents laid some pipelines and tried to fix up motor to the Well to provide water to the rehabilitation colony without any acquisition of the Well or consent from the petitioners and the said Well is situated in the property of the petitioners which is the only source of irrigation to their lands. The entire action of the respondents amounts to violation of Article 300 of the Constitution of India.

In the counter affidavit filed on behalf of the respondents, apart from denying the very title of the petitioners in regard to the aforesaid lands, it is stated that the Well is not situated in the lands claimed by the petitioners but it is situated in the Gouthan area of the village and thus the question of acquisition does not arise.

Having heard the counsel on either side and on perusal of the material, it is seen that in view of the serious disputed question of title and also the very identity as to the existence of Well, it is not open for this Court to go into the same and come to very conclusion in exercise of powers conferred under Article 226 of the Constitution of India. In the circumstances, I do not find any justification to entertain the same.

The writ petition is, accordingly, dismissed. It shall be open for the petitioners herein to avail the common law remedy by filing a comprehensive suit and seek necessary reliefs there. No costs.

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B. PRAKASH RAO, J

17th February 2005.

Chvn

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER.

To

1 The District Collector,
Mahaboobnagar, Mahaboobnagar District.
2 The Special Deputy Collector L.A.O., P.J.P.,
Gadwal, Mahaboobnagar dist,
3 The Executive Engineer, LA.R., Division,
Gadwal, Mahaboobnagar.
4 The Superintending engineer, P.J.P., Circle No.1,
Gadwal Mahaboobnagar Dist.

5 Two C.Cs. to the G.P. for Land Acquisition, High Court Buildings, Hyderabad (OUT).

6 Two C.D. copies.